

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-1883-AIR-E TCEQ ID: RN104924543 CASE NO.: 36872**  
**RESPONDENT NAME: COASTAL INDUSTRIAL COATINGS, INCORPORATED**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** 8089 Highway 69 South, Kountze, Hardin County

**TYPE OF OPERATION:** industrial coating plant

**SMALL BUSINESS:** ☒ Yes ☐ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired September 9, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. James Nolan, Air Enforcement Section, MC 149, (512) 239-6634

**TCEQ Regional Contact:** Ms. Heather Ross, Beaumont Regional Office, MC R-10, (409) 898-3838

**Respondent:** Mr. David Hicks, President, Coastal Industrial Coatings, Inc., P.O. Box 471, Kountze, Texas 77625  
Mr. David Hicks, President, Coastal Industrial Coatings, Inc., 4156 Cowboy Lane, Kountze, Texas 77625

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 25, 2008</p> <p><b>Date of NOE Relating to this Case:</b> November 21, 2008</p> <p><b>Background Facts:</b> The EDPRP was filed April 27, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that the Respondent received notice of the EDPRP. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> Not yet in compliance.</p> <p><b>AIR:</b> Failed to obtain a permit or meet the conditions of a permit by rule ("PBR") [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH &amp; SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p>	<p><b>Total Assessed:</b> \$ 5,200</p> <p><b>Total Deferred:</b> \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$ 5,200</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"><li>1. Immediately, cease all unauthorized surface coating operations at the Plant.</li><li>2. Within 15 days, submit an administratively complete permit application.</li><li>3. Respond completely and adequately, as determined by TCEQ, to all requests for information concerning the permit application within 30 days after the date of such request, or by any other deadline specified in writing.</li><li>4. Within 180 days, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that operations have ceased until such time that appropriate authorization is obtained.</li></ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	17-Nov-2008	Screening	2-Dec-2008	EPA Due	
	PCW	16-Dec-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Coastal Industrial Coatings, Incorporated		
Reg. Ent. Ref. No.	RN104924543		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36872	No. of Violations	1
Docket No.	2008-1883-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	James Nolan
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$4,000</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	30.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$1,200</b>
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Notes	Penalty enhancement due to two similar NOV's and one previous 1660-style Agreed Order.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$97	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,500	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$5,200</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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<b>Final Penalty Amount</b>	<b>\$5,200</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$5,200</b>
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	<b>\$5,200</b>
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Screening Date 2-Dec-2008

Docket No. 2008-1883-AIR-E

PCW

Respondent Coastal Industrial Coatings, Incorporated

Policy Revision 2 (September 2002)

Case ID No. 36872

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104924543

Media [Statute] Air

Enf. Coordinator James Nolan

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Penalty enhancement due to two similar NOVs and one previous 1660-style Agreed Order.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 30%

<b>Screening Date</b> 2-Dec-2008		<b>Docket No.</b> 2008-1883-AIR-E		<b>PCW</b>	
<b>Respondent</b> Coastal Industrial Coatings, Incorporated		<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 36872		<small>PCW Revision October 30, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN104924543					
<b>Media [Statute]</b> Air					
<b>Enf. Coordinator</b> James Nolan					
<b>Violation Number</b>		<div style="border: 1px solid black; padding: 2px;">1</div>			
<b>Rule Cite(s)</b>		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 116.110(a) and Tex. Health &amp; Safety Code §§ 382.0518(a) and 382.085(b)</div>			
<b>Violation Description</b>		<div style="border: 1px solid black; padding: 2px;">Failed to obtain a permit or meet the conditions of a permit by rule ("PBR"). Specifically, the Plant did not meet the distance requirements of a PBR and failed to obtain a New Source Review permit.</div>			
<b>Base Penalty</b>					<div style="border: 1px solid black; padding: 2px;">\$10,000</div>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>	<b>Harm</b>				
	Release	Major	Moderate	Minor	
	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<b>Percent</b> <div style="border: 1px solid black; padding: 2px;">0%</div>
Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>		
<b>&gt;&gt; Programmatic Matrix</b>					
	Falsification	Major	Moderate	Minor	
	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">X</div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<b>Percent</b> <div style="border: 1px solid black; padding: 2px;">10%</div>
<b>Matrix Notes</b>	<div style="border: 1px solid black; padding: 5px;">100% of the rule requirement was not met.</div>				
<b>Adjustment</b>					<div style="border: 1px solid black; padding: 2px;">\$9,000</div>
					<div style="border: 1px solid black; padding: 2px;">\$1,000</div>
<b>Violation Events</b>					
<b>Number of Violation Events</b>		<div style="border: 1px solid black; padding: 2px;">4</div>		<b>Number of violation days</b>	
		<div style="border: 1px solid black; padding: 2px;">100</div>			
<small>mark only one with an x</small>	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>		<b>Violation Base Penalty</b> <div style="border: 1px solid black; padding: 2px;">\$4,000</div>	
	weekly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">X</div>			
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
	single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
Four monthly events are recommended from the date of investigation (August 25, 2008) to the date of screening (December 2, 2008).					
<b>Good Faith Efforts to Comply</b>		0.0% Reduction		<div style="border: 1px solid black; padding: 2px;">\$0</div>	
		<small>Before NOV    NOV to EDPRP/Settlement Offer</small>			
Extraordinary		<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
Ordinary		<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
N/A		X (mark with x)			
<b>Notes</b>		<div style="border: 1px solid black; padding: 5px;">The Respondent does not meet the good faith criteria for this violation.</div>			
<b>Violation Subtotal</b>					<div style="border: 1px solid black; padding: 2px;">\$4,000</div>
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>			<b>Violation Final Penalty Total</b>		
<div style="border: 1px solid black; padding: 2px;">\$97</div>			<div style="border: 1px solid black; padding: 2px;">\$5,200</div>		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>					<div style="border: 1px solid black; padding: 2px;">\$5,200</div>

**Economic Benefit Worksheet**

Respondent: Coastal Industrial Coatings, Incorporated

Case ID No. 36872

Reg. Ent. Reference No. RN104924543

Media Air

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$					

**Delayed Costs**

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	\$0	\$0
Record Keeping System			0.00	\$0	\$0	\$0
Training/Sampling			0.00	\$0	\$0	\$0
Remediation/Disposal			0.00	\$0	\$0	\$0
Permit Costs	\$2,500	25-Aug-2008	3-Jun-2009	0.77	\$97	\$97
Other (as needed)			0.00	\$0	\$0	\$0

Notes for DELAYED costs

Estimated cost to obtain a permit for surface coating operations. Date required is the date of investigation and the final date is the estimated date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$97

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603009283 Coastal Industrial Coatings, Incorporated Classification: AVERAGE Rating: 20.00

Regulated Entity: RN104924543 COASTAL INDUSTRIAL COATINGS Classification: AVERAGE Site Rating: 20.00

ID Number(s): AIR NEW SOURCE PERMITS REGISTRATION 78625  
AIR NEW SOURCE PERMITS REGISTRATION 82480

Location: 8089 HIGHWAY 69 S, KOUNTZE, TX, 77625

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: December 02, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 02, 2003 to December 02, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: James Nolan Phone: (512) 239-6634

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 04/14/2008 ADMINORDER 2007-1132-AIR-E
- Classification: Major
- Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)  
5C THC Chapter 382, SubChapter A 382.0518(a)  
5C THC Chapter 382, SubChapter D 382.085(b)
- Description: Failed to obtain a permit or meet the conditions of a permit by rule ("PBR")
- B. Any criminal convictions of the state of Texas and the federal government.
- N/A
- C. Chronic excessive emissions events.
- N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |   |            |          |
|---|------------|----------|
| 1 | 06/02/2006 | (463573) |
| 2 | 11/28/2006 | (518603) |
| 3 | 06/28/2007 | (562899) |
| 4 | 11/26/2007 | (597088) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date: 06/02/2006 (463082)
- Self NO Classification: Moderate
- Citation: 30 TAC Chapter 101, SubChapter A 101.4  
5C THC Chapter 382, SubChapter D 382.085(b)
- Description: Failure to prevent unauthorized outdoor burning.
- Self NO Classification: Moderate
- Citation: 30 TAC Chapter 101, SubChapter A 101.4  
5C THC Chapter 382, SubChapter D 382.085(b)
- Description: Failure to prevent nuisance conditions.
- Self Report? NO Classification: Moderate

Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)(1)		
	5C THC Chapter 382, SubChapter D 382.085(b)		
Description:	Failure to obtain a New Source Review Permit.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 106, SubChapter S 106.433(9)		
	30 TAC Chapter 106, SubChapter T 106.452(2)(D)		
	30 TAC Chapter 116, SubChapter B 116.110(a)(4)		
	5C THC Chapter 382, SubChapter D 382.085(b)		
Description:	Failure to comply with a permit by rule.		
Date:	04/05/2007 (541496)		
Self Report?	NO	Classification	Major
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)		
	5C THC Chapter 382, SubChapter D 382.085(b)		
Description:	Failure to obtain authorization prior to constructing a facility which may emit air contaminants into the air of this state.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 101, SubChapter A 101.4		
	5C THC Chapter 382, SubChapter D 382.085(b)		
Description:	Failure to prevent a nuisance condition.		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
COASTAL INDUSTRIAL  
COATINGS, INCORPORATED;  
RN104924543**

§  
§  
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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER DOCKET NO. 2008-1883-AIR-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Coastal Industrial Coatings, Incorporated ("Coastal Industrial").

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. Coastal Industrial owns and operates an industrial coating plant located at 8089 Highway 69 South in Kountze, Hardin County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation conducted on August 25, 2008, a TCEQ Beaumont Regional Office investigator documented that Coastal Industrial failed to obtain a permit or meet the conditions of a permit by rule ("PBR"). Specifically, the Plant did not meet the distance requirements of a PBR and failed to obtain a New Source Review permit.
4. Coastal Industrial received notice of the violation on or about November 26, 2008.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement

Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Coastal Industrial Coatings" (the "EDPRP") in the TCEQ Chief Clerk's office on April 27, 2009.

6. By letter dated April 27, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Coastal Industrial with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Coastal Industrial received notice of the EDPRP.
7. More than 20 days have elapsed since Coastal Industrial received notice of the EDPRP, provided by the Executive Director. Coastal Industrial failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Coastal Industrial is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Coastal Industrial failed to obtain a permit or meet the conditions of a permit by rule ("PBR") in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b).
3. As evidenced by Finding of Fact Nos. 5 and 6 the Executive Director timely served Coastal Industrial with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact No. 7, Coastal Industrial failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Coastal Industrial and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Coastal Industrial for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of five thousand two hundred dollars (\$5,200.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Coastal Industrial is assessed an administrative penalty in the amount of five thousand two hundred dollars (\$5,200.00) for violations of the Texas Water Code, Texas Health and Safety Code, and the rules of the TCEQ. The payment of this administrative penalty and Coastal Industrial's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Coastal Industrial Coatings, Incorporated; Docket No. 2008-1883-AIR-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Coastal Industrial shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Commission Order, Coastal Industrial shall cease all unauthorized surface coatings operations at the Plant;
  - b. Within 15 days after the effective date of this Commission Order, Coastal Industrial shall submit an administratively complete permit application in accordance with 30 TEX. ADMIN. CODE § 116.110(a) to:

Air Permits Division, MC 162  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

- c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and
- d. Within 180 days after the effective date of this Commission Order, Coastal Industrial shall submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that operations have ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation, including photographs, receipts, and /or other records, to demonstrate compliance with Ordering Provision No. 2.a. through 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Coastal Industrial shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section Manager  
Texas Commission on Environmental Quality  
Beaumont Regional Office  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Coastal Industrial. Coastal Industrial is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Coastal Industrial shall be made in writing to the Executive Director. Extensions are not effective until Coastal Industrial receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Coastal Industrial if the Executive Director determines that Coastal Industrial has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF JACQUELYN BOUTWELL**

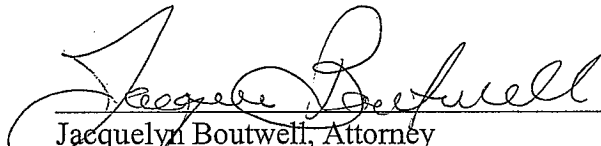
STATE OF TEXAS           §  
                                     §  
COUNTY OF TRAVIS       §

"My name is Jacquelyn Boutwell. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Coastal Industrial Coatings, Incorporated" (the "EDPRP") was filed with the Office of the Chief Clerk on April 27, 2009.

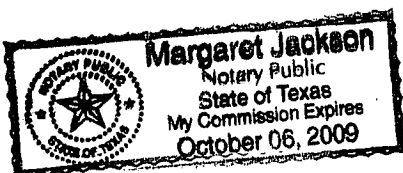
The EDPRP was mailed to Coastal Industrial at its last known address on April 27, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Coastal Industrial received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

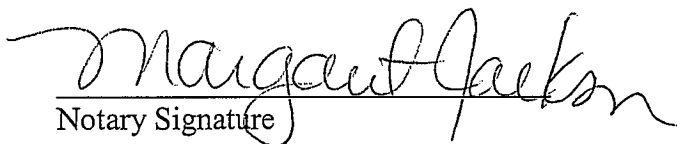
More than 20 days have elapsed since Coastal Industrial received notice of the EDPRP. Coastal Industrial failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."

  
Jacquelyn Boutwell, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jacquelyn Boutwell, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 24 day of August A.D., 2009.



  
Notary Signature